

This report will be made public on 7 December 2020



Report Number: **DCL/20/34**

To: Licensing Sub-Committee
Date: 15 December 2020
Status: Non-Executive Decision
Head of service: Ewan Green – Director of Place

SUBJECT: An application for a Variation of a Premises Licence in respect of: The Star Inn, St Mary in the Marsh, Kent, TN29 0BX

SUMMARY:

This report outlines the application made by Mr Stone to vary the current Premises Licence for this premises. The Licensing Sub-Committee must determine the outcome for the application.

REASONS FOR DETERMINATION:

The Committee is asked to consider the Variation application for the Premises Licence. When considering the application the Committee must ensure they fully promote the licensing objectives. The Committee is obliged to have regard to the revised national section 182 guidance and the council's own licensing policy.

DETERMINATION:

The Licensing Sub-Committee is asked to:

1. Note the contents of Report DCL/20/34.
2. Determine the application. The options for determining the application are set out in section 4.

1. BACKGROUND

- 1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premises and other licensable activities must be authorised by a premises licence.

A premises licence holder must comply with the four licensing objectives:

- The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.2 The premises at The Star Inn, St Mary in the Marsh, Kent, TN29 0BX has held a premises licence since before 2005 when the Licensing Act 2003 was introduced, it was brought over from Magistrates. Mr Stone applied to transfer the Premises Licence and DPS to himself of the 3rd August 2018. A copy of the current licence can be found at Appendix 1.
- 1.3 There are no conditions on the licence aside from the Mandatory Conditions. The current licence allows alcohol sales from 11:00 to 23:00, Monday-Saturday and on Sunday, 12:00 to 22:30 and Recorded Music 11:00 to 23:00, Monday-Saturday and on Sunday, 12:00 to 22:30.
- 1.4 There haven't been any recent Temporary Events Notices submitted for this premises. There have been 4 complaints received by the Environmental Pollution Department over the last 18 months regarding loud music. The threshold of a noise nuisance was not found to be met.

2. APPLICATION

- 2.1 An application to Vary the Premises Licence was received from the premises licence holder on the 8th October 2020. The application can be found at Appendix 2. The Variation is to extend the Premises Licence area from the inside of the pub, to include the outside beer garden area as it was not clear whether the original licence had included the garden or not due to no plans being available. This is primarily so that they can have amplified live music outside in the summer months.
- 2.2 Live music was deregulated in 2012 so amplified live music can be played in an area licensed for alcohol from 08:00 until 23:00 as it is not a licensable activity. Live music can be played inside the pub until 23:00 without it being specified on the licence. However, if amplified live music is to be played in the garden the Premises Licence area needs to be extended to cover the garden.
- 2.3 The licence holder has submitted the following information to explain how they will prevent any noise nuisance from the outside live music:

This is how we intend to monitor our music and to ensure our music levels are kept to a reasonable level.

We will walk towards residential areas to monitor the sound. If we feel the music is too loud we will make sure that it is brought down to a better level.

We would like to work with our neighbours and with that in mind we are going to put a note around to all of our neighbours with our phone number on so as they can ring us direct if they have a problem. We will then do our best to accommodate them.

We will also erect signage to ask people to respect our neighbours and keep their own noise to a minimum.

3. RELEVANT REPRESENTATIONS

- 3.1. This Hearing has been required by the Licensing Act 2003 because representations were received from members of the public.

Responsible Authority	Comments
Home Office - Immigration	None
Kent Police	None
Environmental Health (Pollution)	None
Environmental Health (Commercial)	None
Kent Fire and Rescue	None
Planning	None
Child Protection Agency	None

Five valid representations were submitted from the Parish Council and members of the public, these were objections and can be found in Appendix 3.

4. OPTIONS

- 4.1. The Licensing Sub-Committee has the following options:

- a) Grant the Variation
- b) Grant the Variation with amendments
- c) Add conditions to the Licence
- d) Reject whole or part of the Variation

- 4.2. The Committee is asked to note that it may not add conditions or amend the licence merely because it considers it desirable to do so. The Committee must only consider evidence that relates to the four Licensing Objectives. Any conditions added must promote the Licensing Objectives.

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Briony Williamson, Licensing Specialist

Telephone: 01303 853475

Email: briony.williamson@folkestone-hythe.gov.uk

Background documents:

Current Licensing Policy is available under the Policies section of the website:

<https://www.folkestone-hythe.gov.uk/your-council/policies-plans-and-documents/policy-documents>

The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available at:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Committee members are advised to read the new guidance thoroughly. Your attention is drawn to paragraphs 9.42, 9.43 and 9.44 in respect of the determination of the application. Additionally members are advised to refer to section 10 about imposing conditions. It is also good practice that if they propose to apply conditions they should be discussed with the applicant prior to the determination to ensure that they are proportionate.

6. APPENDICES

Appendix 1. Current Premises Licence

Appendix 2. Application to Vary Premises Licence

Appendix 3. Representations